



BASEL CONVENTION

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**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements
of Hazardous Wastes and Their Disposal
Sixteenth meeting**

Geneva, 1–12 May 2023

Item 4 (c) (ii) of the provisional agenda*

**Matters related to the implementation of the
Convention: legal, compliance and governance
matters: providing further legal clarity**

Providing further legal clarity

Note by the Secretariat

I. Introduction

1. In decision BC-15/19, on providing further legal clarity, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal recalled the mandate of the expert working group on the review of the annexes to the Convention, as set out in decisions BC-13/2, BC-14/13 and BC-14/16, and decided to remove the review of entries A1180 in Annex VIII and B1110 in Annex IX from the mandate of the group.
2. In the same decision, the Conference of the Parties acknowledged the need for further discussion on amendments to Annex IV – for example, on the following issues, among others, which were discussed during the fifteenth meeting of the Conference of the Parties:
 - (a) General introduction, captions and introductory text for sections A and B of Annex IV;
 - (b) Keeping, deleting, merging or splitting existing operations;
 - (c) Inclusion of new operations – for example, on preparing for reuse and catch-all operations;
 - (d) Consideration of non-environmentally sound management operations – for example, open burning;
 - (e) Inclusion of clarifying examples;
 - (f) Ordering and numbering of the operations.
3. In the decision, the Conference of the Parties requested the Open-ended Working Group of the Basel Convention to consider the proposals by the European Union to amend Annex IV and certain entries in Annexes II and IX to the Basel Convention¹ and the recommendations and findings of the expert working group,² taking into account the discussions at the fifteenth meeting of the

* UNEP/CHW.16/1.

¹ UNEP/CHW.15/13/Add.1.

² UNEP/CHW.15/INF/18.

Conference of the Parties, as well as the progress made in the review of Annexes I and III, and to provide recommendations for consideration by the Conference of the Parties at its sixteenth meeting.

4. In the decision, the Conference of the Parties further requested the regional groups that had not yet nominated 10 experts with relevant expertise to serve as members of the expert working group to nominate the remaining experts by 31 July 2022 through their Bureau representatives, and requested the Secretariat to facilitate the nomination process. Finally, the Conference of the Parties requested the Secretariat to report on the implementation of the decision to the Open-ended Working Group at its thirteenth meeting and to the Conference of the Parties at its sixteenth meeting.

II. Implementation

A. Membership

5. Updated information on the membership of the expert working group is available on the website of the Convention.³ As at 29 November 2022, 9 experts had been nominated from among the Parties from the African States, 7 experts had been nominated from among the Parties from the Asia-Pacific States, 7 experts had been nominated from among the Parties from the Eastern European States, 6 experts had been nominated from among the Parties from the Latin American and Caribbean States, and 10 experts had been nominated from among the Parties from the Western European and other States. As at that same date, Magda Gosk (Poland) was one of the two elected co-chairs of the expert working group, and a second co-chair was yet to be elected.

B. Annex IV

6. The proposals by the European Union to amend Annex IV and certain entries in Annexes II and IX to the Basel Convention, initially set out in document UNEP/CHW.15/13/Add.1, and the recommendations by the expert working group on the review of annexes for possible amendment proposals for Annex IV and for entries A1180 and B1110 in Annexes VIII and IX to the Basel Convention, as well as the findings of the expert working group on the consequential implications of the review of Annex IV to the Convention (status 13 January 2022), initially set out in annex I to document UNEP/CHW.15/INF/18, will be considered by the Open-ended Working Group at its thirteenth meeting on the basis of documents UNEP/CHW/OEWG.13/8 and UNEP/CHW/OEWG.13/INF/13, with a view to developing recommendations for consideration by the Conference of the Parties.

7. The proposals by the European Union to amend Annex IV and certain entries in Annexes II and IX to the Basel Convention, and the above-mentioned recommendations and findings of the expert working group, revised as appropriate by the Open-ended Working Group at its thirteenth meeting, are reproduced, respectively, in annexes I and II of document UNEP/CHW.16/INF/26. The outcomes of the thirteenth meeting of the Open-ended Working Group, including recommendations for consideration by the Conference of the Parties, are set out in document UNEP/CHW.16/20/Add.1.

C. Annexes I and III

8. Following the face-to-face segment of the fifteenth meeting of the Conference of the Parties, the expert working group continued its work on the review of Annexes I and III to the Convention by electronic means, including by finalizing, on 15 September 2022, the “[Draft r] [R]ecommendations on the review of annexes for possible amendment proposals to Annex I, including whether any additional constituents in relation to plastic waste should be added to Annex I, and findings of the expert working group on the consequential implications of the review of Annex I”, and the “[Draft r] [R]ecommendations on the review of annexes for possible amendment proposals to Annex III, including whether any additional characteristics in relation to plastic waste should be added to Annex III, and findings of the expert working group on the consequential implications of the review of Annex III”. The expert working group also collected views from its members and observers on whether de minimis concentration values, concentration limit values and cut-off concentration values should be established in Annex III.

³ <http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/AnnexesI,III,IVandrelatedaspectsofAnnexes/ExpertWorkingGroup/tabid/6105/Default.aspx>.

9. In a letter dated 19 September 2022,⁴ the Secretariat made available to Parties and observers the above-mentioned recommendations and compilation of views and invited the provision of comments thereon by 17 October 2022. The comments received were made available on the website of the Convention.⁵

10. The expert working group held its fifth meeting from 5 to 7 December 2022, in Geneva, and focused its deliberations on continuing its review of Annexes I and III. Information on progress made in the review of Annexes I and III will be considered by the Open-ended Working Group at its thirteenth meeting on the basis of documents UNEP/CHW/OEWG.13/8 and UNEP/CHW/OEWG.13/INF/14, with a view to developing recommendations for consideration by the Conference of the Parties.

11. The recommendations and findings of the expert working group regarding the review of Annexes I and III to the Basel Convention, revised as appropriate by the Open-ended Working Group at its thirteenth meeting, are reproduced, respectively, in annexes I and II to document UNEP/CHW.16/INF/27. The outcomes of the thirteenth meeting of the Open-ended Working Group, including recommendations for consideration by the Conference of the Parties, are set out in document UNEP/CHW.16/20/Add.1.

III. Proposed action

12. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties

1. *Welcomes* the progress made by the expert working group on the review of Annexes I, III and IV in the review of Annexes I and III⁶ and takes note of the draft recommendations and findings developed by the group, revised as appropriate by the Open-ended Working Group at its thirteenth meeting;⁷

2. *Requests* the expert working group:

(a) To consider the proposals by the European Union to amend Annex IV and certain entries in Annexes II and IX to the Basel Convention⁸ and the recommendations and findings of the expert working group, revised as appropriate by the Open-ended Working Group at its thirteenth meeting,⁹ taking into account decision BC-15/19, the discussions at the fifteenth meeting of the Conference of the Parties, the discussions at the thirteenth meeting of the Open-ended Working Group and the discussions at the sixteenth meeting of the Conference of the Parties, and develop revised amendment proposals for consideration by the Open-ended Working Group at its fourteenth meeting;

(b) To develop revised recommendations on the review of Annexes I and III, taking into account the discussions at the thirteenth meeting of the Open-ended Working Group and the discussions at the sixteenth meeting of the Conference of the Parties, for consideration by the Open-ended Working Group at its fourteenth meeting;

3. *Decides* to consider at its seventeenth meeting the revised amendment proposals to Annex IV and the revised recommendations on the review of Annexes I and III, taking into account the outcome of the fourteenth meeting of the Open-ended Working Group.

⁴ The letter is available at www.basel.int/TheConvention/Communications/tabid/1596/Default.aspx.

⁵ www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/AnnexesI,III,IVandrelatedaspects/Activities20222023/tabid/9334/Default.aspx.

⁶ UNEP/CHW/OEWG.13/8.

⁷ UNEP/CHW.16/INF/27, annexes.

⁸ UNEP/CHW.15/13/Add.1.

⁹ UNEP/CHW.16/INF/26, annexes.